

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In Re:	: Bankruptcy No. 23-10783-AMC
Mark J. Fregoni	: Chapter 13
Debtor	:
	:
U.S. Bank Trust National Association, not in its	:
individual capacity but solely as owner trustee for	:
Legacy Mortgage Asset Trust 2018-RPL2 c/o	:
Rushmore Loan Management Services, LLC	:
Movant	:
vs.	:
Mark J. Fregoni and Regina A. Fregoni (Non-	:
filing Co-Debtor)	:
Debtor/Respondent	:
and	:
Kenneth E. West, Esquire	:
Trustee/Respondent	:

**MOTION FOR RELIEF FROM AUTOMATIC STAY AND CO-DEBTOR STAY  
UNDER 11 U.S.C. § 362 AND §1301**

Movant, by its Attorneys, Hladik, Onorato & Federman, LLP, hereby requests a Termination of the Automatic Stay and leave to proceed with its State Court rights provided under the terms of the Mortgage.

1. Movant is U.S. Bank Trust National Association, not in its individual capacity but solely as owner trustee for Legacy Mortgage Asset Trust 2018-RPL2 c/o Rushmore Loan Management Services, LLC (“Movant”).

2. Debtors, Mark J. Fregoni (“Debtor”) and Regina A. Fregoni (“Non-filing Co-Debtor”) are the owners of the premises located at 29 Lilac Lane, Levittown, PA 19054 (the “Property”).

3. Kenneth E. West, Esquire is the Trustee appointed by the Court.

4. Debtor filed a Petition for Relief under Chapter 13 of the Bankruptcy Code on March 17, 2023.

5. Movant is the holder of a mortgage lien on the Property in the original principal amount of \$194,972.69, which was recorded on June 29, 2004 (the “Mortgage”), which was executed by Debtor, Mark J. Fregoni (“Debtor”) and Regina A. Fregoni (“Non-Filing Co-Debtor”). A true and correct copy of the Mortgage is attached to Movant’s Proof of Claim #6 filed on the Claims Register.

6. The Mortgage was assigned to Movant by way of a written assignment of mortgage, recorded on April 28, 2023. A true and correct copy of the Assignment of Mortgage is attached to Movant’s Proof of Claim #6 filed on the Claims Register.

7. As of June 21, 2023, Movant has not received the monthly post-petition Mortgage payments from March 29, 2023 through May 29, 2023 in the amount of \$1,739.96 each, as well as attorney fees and costs in the amount of \$1,238.00, less suspense in the amount of \$1,670.00, for a total post-petition arrearage of \$4,787.88.

8. The entity that has the right to foreclose is U.S. Bank Trust National Association, not in its individual capacity but solely as owner trustee for Legacy Mortgage Asset Trust 2018-RPL2 c/o Rushmore Loan Management Services, LLC by virtue of being owner and holder of note.

9. Movant has cause to have the Automatic Stay terminated, to permit Movant to complete foreclosure on its Mortgage.

10. This Motion and the averments contained herein do not constitute a waiver by the Movant of its right to seek reimbursement of any amounts not included in this Motion, including fees and costs, due under the terms of the Mortgage and applicable law.

11. Pursuant to 11 U.S.C. 362, the Automatic Stay of the Bankruptcy Code should be terminated as to Movant because:

- a. Movant lacks adequate protection of its security interest under 11 U.S.C. 362(d)(1); and
- b. Debtor has no equity in the mortgaged property and the property is not necessary for an effective reorganization. 11 U.S.C. 362(d)(2)

**WHEREFORE**, Movant respectfully requests that this Court enter an Order:

- a. Modifying the Automatic Stay and Co-Debtor Stay under 11 U.S.C. § 362 and §1301 of the Bankruptcy Code with respect to the Property as to permit Movant to foreclose on its Mortgage and allow Movant or any other purchaser at Sheriff's Sale to take legal or consensual action for enforcement of its right to possession of, or title to; and
- b. Granting any other relief that this Court deems equitable and just.

Respectfully Submitted,

Date: 06/30/2023

/s/ Sarah K. McCaffery, Esquire  
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